

REMARKS

Summary of Law Regarding Rejection Under 35 U.S.C. 103

It is an established principle that prior art references are references only for what they clearly disclose or suggest; it is not proper use of a patent as reference to modify its structure to one which prior art references do not suggest. In re Randol and Redford, 165 USPQ 568 (CCPA 1970).

Claim 137 and Its Dependent Claims

The office action clearly states that "Watanabe et al do not disclose that in response to said failure of said first egress module/external failure, directing a message to said *ingress module* informing said module said *ingress module* of said first egress module failure; and the *ingress module* selecting an alternate egress module capable of forwarding information to said destination." Page 4, Office Action. The Office Action goes on to state that such limitation is taught by the '063 Reference and states that it would be obvious to combine without providing reason, but only a reference to motivation: "One would be motivated to do so that the input ports can determine a new path for the packets instead of the switch, thereby load balancing [sic.] the route determining function from the switch."

A careful examination of the '230 Reference and the '063 Reference reveals a substantial architectural incompatibility in the two described systems. The '063 Reference system requires that two-way communication exist between the input interface and the output interface so that routing tables can be updated. However, the the system described in the '230 Reference indicates only a one-way path between input ports and output ports and that instructions related to routing instructions must emanate

from either the configuration table or the management console and cannot be retained or processed at the "dumb" input ports 112, 114, 118. Thus, the routing update methodology employed by the '063 Reference cannot be implemented within the architectural constraints of the system described in the '230 Reference.

Claim 140 and Its Dependent Claims

The Office action fails to present any reasons for rejection of claim 140 and thus fails to establish *prima facie* ground for rejection, as required. Applicant respectfully requests that the rejection be withdrawn or that a *prima facie* case of obviousness be clearly stated.

Claim 143 and Its Dependent Claims

Claim 143 includes the language "directing a message to said ingress module . . ." and the office action establishes that such limitation is not presented in the '230 Reference. As stated above, due to architectural constraints, the '230 Reference and the '063 Reference cannot logically be combined. Therefore, the apparatus described in independent claim 143 and its dependent claims is not anticipated, taught or suggested by the cited references either singly or using any appropriate combination.

Claim 146 and Its Dependent Claims

Claim 146 includes the language "directing a message to said ingress module . . ." and "in response to said message, said ingress module selecting . . ." and the office action establishes that such limitation is not presented in the '230 Reference. As stated above, due to architectural constraints, the '230 Reference and the '063 Reference cannot logically be combined. Therefore, the apparatus described in independent claim

146 and its dependent claims is not anticipated, taught or suggested by the cited references either singly or using any appropriate combination.

Claim 149 and Its Dependant Claims

Claim 149 includes the language in an ingress module "receiving a message . . ." and "determining based upon said message . . ." and the office action establishes that such limitation is not presented in the '230 Reference. As stated above, due to architectural constraints, the '230 Reference and the '063 Reference cannot logically be combined. Therefore, the apparatus described in independent claim 149 and its dependent claims is not anticipated, taught or suggested by the cited references either singly or using any appropriate combination.

Claim 152 and Its Dependant Claims

Claim 152 describes an ingress module in a router comprising "a mechanism for receiving a message . . ." and "a mechanism for determining based upon said message . . ." and the office action establishes that such limitation is not presented in the '230 Reference. As stated above, due to architectural constraints, the '230 Reference and the '063 Reference cannot logically be combined. Therefore, the apparatus described in independent claim 152 and its dependent claims is not anticipated, taught or suggested by the cited references either singly or using any appropriate combination.

Claim 161 and Its Dependant Claims

Claim 161 describes a method implemented by the ingress module comprising "receiving a message . . ." and "in response to said message . . ." and the office action establishes that such limitation is not presented in the '230 Reference. As stated above,

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due to architectural constraints, the '230 Reference and the '063 Reference cannot logically be combined. Therefore, the apparatus described in independent claim 161 and its dependent claims is not anticipated, taught or suggested by the cited references either singly or using any appropriate combination.

Claim 175 and Its Dependant Claims

Claim 175 describes an ingress module, comprising "a mechanism for receiving a message . . ." and "a mechanism for selecting, in response to said message . . ." and the office action establishes that such limitation is not presented in the '230 Reference. As stated above, due to architectural constraints, the '230 Reference and the '063 Reference cannot logically be combined. Therefore, the apparatus described in independent claim 143 and its dependent claims is not anticipated, taught or suggested by the cited references either singly or using any appropriate combination.

Conclusion

Applicants respectfully request reconsideration of the claims in view of the remarks made herein. A notice of allowance is earnestly solicited. In the case that any issues regarding this application can be resolved expeditiously via a telephone conversation, Applicants invite the Examiner to call Stuart J. West at telephone number (925)465-4603 x 204.

Respectfully submitted,
West & Associates, A PC

By _____/s/
Stuart J. West
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Date: September 21, 2007

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OF CLAIMS